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Daniel McCracken-Hewson
General Manager, Merger Investigations
Branch
Australian Competition and Consumer
Commission
Level 17, 2 Lonsdale Street
MELBOURNE, VIC 3000

27 July 2023
Matter 82744345
By Email

Dear Mr McCracken-Hewson

Brookfield and MidOcean application for merger authorisation for proposed acquisition of Origin Energy Limited

We refer to your letter dated 19 July 2023 addressed to the solicitors for the Applicants in the above transaction, identifying the lines of inquiry the ACCC is undertaking to determine whether it is satisfied of the requirements of s90(7) of the *Competition and Consumer Act 2010 (Act)*, and requesting the Applicants provide certain information pursuant to s90(6)(b) of the Act (**Transparency Letter**).

Origin Energy Limited (**Origin**) provides a response to certain questions in the Transparency Letter in **Annexure A** to this letter.

Origin requests that the information highlighted in Annexure A and all of Annexure B be excluded from the public register. A public version of this letter and Annexure A for publication, together with a schedule of confidentiality justifications, will be provided separately.

Yours sincerely

[Redacted signature block]

Linda Evans
Partner
Herbert Smith Freehills

Andrew North
Executive Counsel
Herbert Smith Freehills

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Annexure A

Vertical integration of electricity retail and smart meter services

(Transparency Letter, p.9)

The ACCC requests the Applicants give the ACCC such additional information that they consider is relevant to the ACCC's determination, regarding:

[...]

- Origin's plans or incentives to exclusively contract with Intellihub for its remaining volume of smart meters, or alternatively, to conduct a competitive tender process for its remaining allocation of smart meters after completion of the Proposed Acquisition

1 Origin's strategy is to continue to [REDACTED] for the AEMC's accelerated roll-out of smart meters.¹ Origin currently has contracts with [REDACTED] Intellihub [REDACTED]

2 Origin's contract with Intellihub includes confidentiality obligations which prevent Intellihub from sharing Origin's data with any other party including with another retailer. A copy of this contract (as amended and restated) is provided as confidential **Annexure B**.²

3 [REDACTED]

[REDACTED] As a procurer of metering services, it is in Origin's best interest for the sector to be competitive.

4 As noted in paragraph 1508 of the Application, Origin is already in an arrangement with Intellihub for [REDACTED]

5 [REDACTED]

¹ For further background, see paragraphs 1463 and 1464 of the Application.

² The provisions in Origin's contract are consistent with the position set out in paragraph 1489 of the Application.



Public benefits: Other public benefits

(Transparency Letter, p.12)

The ACCC requests the Applicants give the ACCC such additional information that they consider is relevant to the ACCC's determination, regarding:

- why hydrogen technologies are particularly critical to Origin's transition to greater use of renewables

- 6 Origin does not consider hydrogen technologies are critical to its transition to greater use of renewables, but rather considers that hydrogen technologies are an important option to achieve Origin's net zero ambitions as outlined in its CTAP, as well as to enable its customers to achieve their own decarbonisation objectives. Origin sees hydrogen technologies as playing an important role in the future global energy mix, particularly in hard-to-abate sectors or for hard-to abate emissions (for example where electrification is not feasible). If hydrogen costs fall materially through time, it could form a replacement fuel for gas in gas generation assets, or it could be used for long term energy storage.

(Transparency Letter, p.12)

The ACCC requests the Applicants give the ACCC such additional information that they consider is relevant to the ACCC's determination, regarding:

[...]

- to the extent that the development of hydrogen technologies succeeds and is important to Origin's transition, why Origin could not access such technologies itself

- 7 As noted above, Origin considers that hydrogen technologies are an important option to achieve Origin's net zero ambitions. Currently hydrogen is uneconomic as a fuel and hydrogen projects rely to a significant extent on government subsidies. Hydrogen projects are major undertakings and, given the return profile of investing in hydrogen technologies at this stage, it is difficult for Origin to do so as a public company. As stated in the Application, Brookfield has a global pipeline of close to 2 GW of early stage hydrogen projects. Given the economies of scale Brookfield has, combined with its global expertise and longer-term investment focus, Brookfield is likely to be able to increase Origin's ability to access developing technologies sooner and at a lower cost than it could on its own.